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16 *Attorneys for Plaintiffs Jonathan Groce and Susan Horowitz*

17 **UNITED STATES DISTRICT COURT**

18 **NORTHERN DISTRICT OF CALIFORNIA**

20 JONATHAN GROCE and SUSAN HOROWITZ, on  
behalf of herself and all others similarly situated,

Case No. 09-cv-0139 MEJ

21 Plaintiffs,

**ADMINISTRATIVE MOTION TO  
CONSIDER WHETHER CASES  
SHOULD BE RELATED**

23 vs.  
24 NETFLIX, INC., WAL-MART STORES, INC., and  
25 WALMART.COM USA LLC,

26 Defendants.

1 TO ALL PARTIES AND THEIR COUNSEL OF RECORD:

2 PLEASE TAKE NOTICE that, pursuant to Local Rules 3-12, Plaintiffs Jonathan Groce and  
3 Susan Horowitz submit this administrative motion for the Court to consider whether *Jonathan Groce*,  
4 *et al. v. Netflix, Inc., et al.*, Case No. 09-cv-0139 MEJ, a putative class action lawsuit filed on January  
5 12, 2009, should be related to *Andrea Resnick, et al. v. Walmart.com USA LLC, et al.*, Case No 09-cv-  
6 0002, filed on January 2, 2009, the low-numbered action also pending in this District. That action has  
7 been assigned to the Honorable Phyllis J. Hamilton. In addition to the *Resnick* action, other related  
8 actions pending in this District are *Michael O'Connor v. Walmart.com USA LLC, et al.*, Case No. 09-  
9 cv-0096 MEJ, filed on January 9, 2009, assigned to the Honorable Maria-Elena James; *Sarah*  
10 *Endzweig v. Walmart.com USA LLC, et al.*, Case No. 09-cv-0111 JCS, assigned to the Honorable  
11 Joseph C. Spero; *Christopher P. Schmitz v. Walmart.com USA LLC, et al.*, Case No. 09-cv-0116  
12 EMC, assigned to the Honorable Edward M. Chen; and *Scott Lynch, et al. v. Walmart.com USA LLC,*  
13 *et al.*, Case No. 09-cv-0138 BZ, assigned to the Honorable Bernard Zimmerman. The *Resnick*,  
14 *O'Connor*, *Endzweig*, *Schmitz*, and *Lynch* actions have not been ordered related as of January 14,  
15 2009.

16 These actions involve substantially the same transactions, events, questions of law, and allege  
17 essentially the same violations of federal antitrust law against substantially the same defendants.  
18 These actions allege that defendants conspired to allocate the market of DVD rentals, agreed not to  
19 compete in that market, and that Netflix monopolized the DVD rental market. These actions are  
20 alleged to have harmed consumers who were Netflix subscribers by causing them to pay more for  
21 their subscriptions than they would have paid absent Defendants' illegal market allocation agreement.

22 It appears likely that there will be an unduly burdensome duplication of labor and expenses  
23 and potentially conflicting results if the cases are heard before different judges.

24 Given the similarities of these actions, assignment of these cases to a single Federal District  
25 Court Judge will conserve judicial resources and promote efficient determination of the actions while  
26 avoiding potentially conflicting results. All three cases pending in this District are at a preliminary  
27 stage and, thus, assignment to a single judge would not prejudice any of the parties. Accordingly,  
28 plaintiffs Jonathan Groce and Susan Horowitz respectfully request that the action entitled *Jonathan*

1 *Groce, et al. v. Netflix, Inc., et al.* be deemed related to *Andrea Resnick, et al. v. Walmart.com USA*  
2 *LLC, et al.*, the first filed case in this District, which is presently assigned to the Honorable Phyllis J.  
3 Hamilton.

4

5 DATED: January 14, 2009

Respectfully submitted,

6

7 By: /s/Alex C. Turan

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